

Regulations Governing Submerged Archaeological Historic Resources

FACT SHEET

This sheet is intended to provide a brief synopsis of the law governing submerged historical resources. It does not cover all the laws or regulations in detail, but references to the appropriate sections of the regulations are included in [parentheses] to permit detailed examination. COMAR stands for Code of Maryland Regulations. This simplified discussion is intended to facilitate understanding of the regulations and to remove some concerns raised with the Maryland Historical Trust due to misunderstandings and misinterpretation of the law governing heritage resources. **When in doubt, call the Maryland Maritime Archaeology Program at 410-697-9564 or 410-697-9577.**

General

It is important to understand that the Submerged Archaeological Historic Property Act applies only to resources (sites, features, objects, etc.) which are: 1) submerged/semi-submerged below the mean high tide line; 2) archaeological; and 3) historic. It does not apply to modern coins, jewelry, watches, keys, etc. or any other resource that is less than 100 years old and not eligible for the National Register of Historic Places.

It is not illegal to own or use a metal detector.

It is not illegal to use these devices on State Forest and Park Service public swimming beaches within established parameters. These include obtaining permission from the park or forest manager and using them between 9 a.m. and dusk from Labor Day through May 30. During the summer months, parks often permit use before 9 a.m. and after dusk, but this varies from park to park and should be checked first. Parks reserve the right to limit their use at other times at the discretion of the park manager (for example, during a special event) [COMAR 08.07.01.18 & 08.07.06.18].

It is not illegal to use metal detectors or to otherwise collect on private property with the permission of the landowner [COMER 05.08.03.01A(5)(a)].

It is not illegal to use metal detectors in State owned or controlled waters (this includes all tidal waters and virtually all non-tidal waters. **When in doubt, check first**).

Regardless of whether a metal detector is involved or not, **it is illegal**, on State owned or controlled land or waters, to excavate, destroy or substantively injure an historic property or its environment; endanger other persons or property; or violate any other applicable regulations or provisions of State, Federal or local law [COMAR 05-08-03.03A].

Permits

Permits are required for activities involving excavation or disturbance of submerged archaeological historic properties. The requirements for obtaining a permit vary according to the type of archaeological historic property and the proposed activities.

The Submerged Archaeological Historic Property Act (Article 83B § 5-611.1; 5-620; 5-630) of 1988 is implemented by regulations that came into effect January 2, 1993 [COMAR 05.08.03]. The Act and Regulations allow for public access to “inspect, study, explore, photograph, measure, record, conduct a reconnaissance survey, or otherwise use and enjoy a submerged archaeological historic property without being required to obtain a permit.” However, as noted above, it is illegal to: excavate; destroy or substantively injure an historic property or its environment; endanger other persons or property; or violate any other regulations or provisions of State, Federal or local law.

It is also permissible, without a permit to collect **only once from any one site** up to **five individual artifacts** that: 1) are exposed or resting on the bottom sediments of submerged lands but which are not embedded; 2) do not require excavation to recover; and 3) do not cumulatively weigh more than 25 pounds. Recovery of these items is permissible only by hand or using screwdrivers (maximum length – 12 inches), wrenches and pliers (max. length – 12 inches; max. jaw width – 2 inches). This **may only be done once at any given site**; one cannot return to the site each day for another five objects [COMAR 05.08.03.03A]. A person may not collect any artifacts from a site that is designated or is eligible for designation as a National Historic Landmark or is listed or is eligible for inclusion on the National Register of Historic Places. A list of these sites is maintained by the Maryland Historical Trust. Contact the Maryland Maritime Archaeology Program for the most current information – 410-697-9564 or 410-697-9577.

In essence it is perfectly acceptable for hobbyists to look for and collect modern jewelry, modern coins, and so forth from non-historic sites. When materials that are obviously not modern are recovered, the individual may collect up to 5 items by hand or with the small hand tools mentioned above, **then must stop and report these finds to the Maryland Historical Trust** [COMAR 05.08.03.01A(4) & 05.08.03.03B]. The Maryland Historical Trust can assist in the identification of the items and determine if they are 100 years old or National Register eligible. The Maryland Historical Trust has two weeks to assess the significance of the site, determine whether the property is indeed 100 years old or National Register eligible, and inform the finder whether (s)he must obtain a permit to continue to work there, or whether the Maryland Historical Trust will request the area be avoided, or whether the area is not likely to yield significant historic information and the public may continue to collect there. If the site is significant, the person will be informed that further work on the site requires a permit, or that the site has been determined as one of those on

the State's Register of sites for which permits will not be issued. At present, there are no submerged sites for which the State will not consider a permit application. The Maryland Historical Trust can also advise on recommended conservation methods to ensure the survival of the objects recovered.

Police officers, including the Department of Natural Resources Police, are empowered to enforce this law.

The Maryland Historical Trust in no way wishes to limit or restrict the public's access to historical sites for enjoyment and non-destructive use. All that is asked is that if an individual has any reason to question whether or not an area or materials encountered are historic, (s)he contacts the Trust first and request clarification or assistance. In addition, should an individual wish to participate in archaeological projects, received training, or have suggestions for projects, displays, lectures or areas or potential investigation, they are encouraged to contact the Maryland Maritime Archaeology Program at 410-697-9564 or 410-697-9577.